

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

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|---------------------------|---|-----------------------|
| In re: | : | Chapter 11 |
| | : | |
| CIRCUIT CITY STORES, INC. | : | Case No. 08-35653-KRH |
| <u>et al.</u> , | : | |
| | : | |
| Debtors. | : | Jointly Administered |

**LIMITED OBJECTION OF CELLCO PARTNERSHIP D/B/A VERIZON WIRELESS
TO DEBTOR’S MOTION FOR ORDERS PURSUANT TO BANKRUPTCY CODE
SECTIONS 105, 363 AND 364 (I) (A) APPROVING PROCEDURES IN CONNECTION
WITH SALE OF ALL OR SUBSTANTIALLY ALL OF THE BUSINESS OR
ADDITIONAL POST-PETITION FINANCING FOR THE BUSINESS, (B)
AUTHORIZING DEBTORS TO ENTER INTO STALKING HORSE OR FINANCING
AGREEMENTS IN CONNECTION WITH GOING CONCERN TRANSACTIONS OR
STALKING HORSE AGREEMENTS IN CONNECTION WITH STORE CLOSING AND
MISCELLANEOUS ASSET SALES, (C) APPROVING THE PAYMENT OF
TERMINATION FEES IN CONNECTION THEREWITH, AND (D) SETTING
AUCTION AND HEARING DATES, (II) APPROVING SALE OF DEBTORS’ ASSETS
FREE AND CLEAR OF ALL INTERESTS AND (III) GRANTING RELATED RELIEF**

Cellco Partnership d/b/a Verizon Wireless (“Verizon Wireless”), objects on a limited basis to the motion of Circuit City Stores, Inc. *et al.* (the “Debtors”) for orders Pursuant to Bankruptcy Code Sections 105, 363 And 364 (I) (A) Approving Procedures in Connection with Sale of all or Substantially all of the Business or Additional Post-Petition Financing for the Business, (B) Authorizing Debtors to Enter Into Stalking Horse or Financing Agreements in Connection with Going Concern Transactions or Stalking Horse Agreements in Connection with Store Closing and Miscellaneous Asset Sales, (C) Approving the Payment of Termination Fees in Connection Therewith, and (D) Setting Auction and Hearing Dates, (II) Approving Sale Of Debtors’ Assets Free and Clear of All Interests, and (III) Granting Related Relief (the “Sale Motion”), and states as follows:

BACKGROUND

1. On November 10, 2008 (the "Petition Date"), the Debtors each filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") in the United States Bankruptcy Court for the Eastern District of Virginia, Richmond Division (the "Bankruptcy Court").

2. The Debtors remain in possession of their assets and continue to manage their businesses and properties as debtors-in-possession pursuant to Bankruptcy Code sections 1107 and 1108.

3. Circuit City and Verizon Wireless entered into that certain Cellular Direct Sales Agreement dated July 1, 2004, as amended from time to time (the "Direct Sales Agreement").

4. Pursuant to the Direct Sales Agreement, Verizon Wireless establishes and operates kiosks at substantially all of Circuit City's stores. These kiosks are Verizon Wireless stores within Circuit City stores. These stores also contain standalone merchandising and demonstration displays at the kiosks for the purpose of offering, selling and marketing Verizon Wireless cellular services. The Direct Sales Agreement provides Verizon Wireless with complete control over the sale and marketing of its inventory and services. Verizon Wireless is solely responsible for (i) hiring, training, managing and terminating all employees who work at the kiosks; and (ii) buying, selling and storing Verizon Wireless inventory; and (iii) establishing pricing and other fees for its products and services. No Debtor has any authority to sell any Verizon Wireless products or services in its stores or on its website and Verizon Wireless has no authority to sell any of the Debtors' products or services at its kiosks. All inventory of Verizon Wireless not located at a kiosk is stored in a locked area separate and apart from any inventory of any Debtor that is stored at a Circuit City location.

5. Verizon Wireless and Circuit City are also parties to that certain Verizon Wireless National Account Agreement effective December 1, 2004, Contract No. 730-02982-2004, as amended from time to time pursuant to which Verizon Wireless has agreed to provide wireless service to Circuit City and certain employees of Circuit City and Circuit City agreed to pay predetermined monthly access rates for such service (the “Corporate Agreement”).

6. The Debtors and Verizon Wireless have entered into a Stipulation Among Debtors and Cellco Partnership D/B/A Verizon Wireless Acknowledging and Authorizing Setoff, Recoupment and Ancillary Relief (the “Verizon Wireless Stipulation”) pursuant to which, *inter alia*, the Debtors have acknowledged Verizon Wireless’s continuing setoff and recoupment rights relating to the Direct Sales Agreement and the Corporate Agreement. The Stipulation is currently pending court approval in connection with the hearing on January 16, 2009.

7. On January 9, 2009, the Debtors filed the Sale Motion seeking a variety of relief, including relief to sell their assets on a going concern or liquidation basis to one or more purchasers pursuant to one or more auctions that have not yet occurred.

RESERVATION OF RIGHTS AND LIMITED OBJECTION

8. Verizon Wireless does not oppose the sale of the Debtors’ assets. However, Verizon Wireless is concerned about the complicated and fluid procedures and imminent deadlines set in connection with the Sale Motion. At present, the Debtors have not conducted the auction(s) contemplated by the Sale Motion due to repeated adjournments to allow further negotiations with potential bidders.

9. Verizon Wireless reserves the right to object to any proposed assumption and assignment of the Direct Sales Agreement and/or Corporate Agreement without its consent, and reserves all rights, including, without limitation, the granting of any designation rights and the

right to contest any assumption or adequate assurance of future performance from the prospective assignee(s) and to evaluate and contest any cure amount proposed by the Debtors in connection with an assumption and assignment.

10. As more fully explained in the Stipulation, Verizon Wireless has setoff and recoupment rights under the Direct Sales Agreement and Corporate Agreement. Accordingly, any assumption and assignment of the Direct Sales Agreement and/or Corporate Agreement must contemplate an estimation and reconciliation of all amounts due as of the proposed date of assignment and a reservation for full exercise of Verizon Wireless's setoff and recoupment rights in connection with the estimation and reconciliation.

11. Verizon Wireless reserves the right to withdraw or supplement this Limited Objection and/or raise additional objections once the Debtors have completed the auction process, as well as at the hearing on the Sale Motion or in connection with any proposed assumption and assignment of the Direct Sales Agreement.

Dated: January 15, 2009

BLANK ROME, LLP

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CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of January, 2009 a copy of the foregoing Limited Objection of Cellco Partnership was served electronically by the Court's ECF system on all subscribed parties. In addition, a courtesy copy was emailed to all parties on the master electronic distribution list.

/s/ John E. Lucian